

This record is a partial extract of the original cable. The full text of the original cable is not available.

071756Z Feb 05

C O N F I D E N T I A L SECTION 01 OF 03 GUATEMALA 000297

SIPDIS

E.O. 12958: DECL: 02/02/2015

TAGS: [ELAB](#) [PHUM](#) [KCRM](#) [EAID](#) [GT](#)

SUBJECT: ALLEGED VIOLENCE AT GUATEMALAN MAQUILA

Classified By: Ambassador John Hamilton, reasons 1.4 (B,D)

1. (SBU) Summary: The Korean manager of a Guatemalan maquila allegedly punched a female union leader in the face during a January 20 altercation at the factory. Both sides filed claims with the prosecutor's office and the Ministry of Labor. The case demonstrates the weakness of Guatemala's ability to enforce labor standards and the ability of management teams to manipulate their workforces and the legal system to create a climate of intimidation. Ironically, the incident took place at factory in which working conditions compare favorably with any factories in the world, including those in the United States. Despite the altercation, negotiations for a collective bargaining agreement at the factory are nearing completion. End summary.

Leading to an altercation

2. (U) The General Manager of a Guatemalan apparel factory, NB Guatemala, allegedly struck a member of the Union's Executive Committee during an altercation on January 20. The Executive Committee member, a 47 year old woman, filed reports with the Ministry of Labor's Inspectorate and the Attorney General's Special Prosecutor for Crimes against Trade Unionists. The General Manager filed counter-claims at both of those offices, as did a rival group of workforce employees loyal to the General Manager. (Note: NB Guatemala, a wholly-owned subsidiary of Korea-based Nobland International, is one of only three maquilas in Guatemala that have registered unions. End note.)

3. (U) Nine employees had been fired in early January on the grounds that they were not permanent employees and did not enjoy job protection benefits. The Union of NB Employees, which represents 20% of the factory's approximately 500 workers, and the federation of unions (FESTRAS) to which the Union belongs protested the process of the workers dismissal and the workers' status as non-permanent employees. In consultation with the Union, NB management agreed to reinstate the nine workers on January 19. According to both Union and management sources, on the morning of January 20, General Manager Yong Ha-Kim (a Korean national resident in Guatemala) was directing the nine workers to new workspaces removed from the main factory floor when Union Secretary General Vidalia Garcia Hernandez and Union Organizational Secretary Maria Rosa Lopez Flores confronted Kim to insist

SIPDIS

that the reinstated workers return to their old positions.

The Union's version...

4. (U) In a January 21 meeting, the Union leaders told us that at this point Kim struck Lopez in the face with a closed fist, knocking her to the ground. Dozens of nearby workers left their workstations to assist Lopez, who was dazed and crying. They told us that Kim then left the area, and the company's Chief of Personnel, Alfonso Cuzal, helped Lopez to her feet and apologized profusely on behalf of Kim. At this point, Laura Garcia, a member of a group of pro-management employees, began shouting accusations that Lopez had started the encounter. When Garcia Hernandez protested this version of the events, Laura Garcia slapped her across the face.

5. (U) Lopez and Garcia Hernandez then left the factory, followed by dozens of workers. When Cuzal followed them to the parking lot and ordered the workers to return to their workstations, Lopez and Garcia Hernandez left the premises to file charges against Kim and Laura Garcia at the Ministry of Labor and the Public Ministry (the Attorney General's Office).

Management's version...

6. (U) When we visited NB on January 27, Kim told us that he had ordered the two Union leaders to return to their own workplaces, informing them that work assignments were under the purview of management. Kim said that Lopez began screaming at him and trying "to make contact" with him. He said that Cuzal had to intervene to keep Lopez from attacking Kim. The screaming attracted a crowd of workers, causing Kim

to leave the scene. According to Cuzal, Lopez and Garcia Hernandez went to the parking lot followed by several of the workers who had left their workstations. Cuzal told us that Garcia Hernandez began telling workers that Kim had struck Lopez. The two Union officers then left the factory. Kim denies ever striking Lopez.

17. (C) Later that morning, Kim filed a counterclaim at the Ministry of Labor, explaining his side of the story and requesting that the Ministry order Lopez and Garcia Hernandez to refrain from involving themselves in situations in which they have no legal position, such as the assignments of workers within the factory. On January 26, Kim and Cuzal jointly filed a similar counterclaim with the Public Ministry.

And a third set of actors...

18. (U) Following the events of January 20, a group of pro-management employees arrived at the Ministry of Labor in a rented bus during working hours to file a claim supporting the views expressed by Kim and Cuzal. Kim told us that the group rented the bus themselves but would not confirm whether they had permission to leave work.

The Government's response

19. (C) Vice Minister of Labor Cesar Castillo told us that he had summoned Kim to his office on January 20 to discuss the matter when Kim visited the Ministry of Labor to file his claim. On January 26, Castillo told us that his inspector would visit NB the following day to interview workers and management in regard to the issue. The inspector did indeed visit NB, but his report did not contain any new information, nor did it draw any conclusions. Castillo told us that he impressed upon Kim the importance of labor rights and how troubling the allegations were from the Ministry's perspective.

110. (C) At the Public Ministry, the Office of the Special Prosecutor for Crimes against Journalists and Trade Unionists received and filed the claims from the Union members and management but has not visited NB. The two claims filed in this case make a total of ten filed in the Special Prosecutor's Office related to NB. The head of the office, Mario Castaneda, told us that claims from NB always come in pairs. The Union's claims of threats are always matched by counterclaims from a rival group of employees, which complicates investigations. A member of the rival group filed the only previous claim of injury against Lopez and Garcia Hernandez. Castaneda told us that his office has no jurisdiction between rival groups of employees. The incident of January 20 marks the first claim directly filed against management, which is in the purview of the Special Prosecutor's Office.

Comment

11. (C) The irony of this case is that January 20 should have been marked as a day of success for the Union. The use of negotiation based upon agreed processes to bring about the reinstatement of improperly fired workers was a significant accomplishment, now marred by the alleged violence. The Union claims that the rival group is materially supported by NB's management and thus should not be considered an alternative voice of the labor force. We think that this is probably the case, and that management is actively encouraging, and very possibly directly funding the activities of this group. We believe that Castaneda's description of paired claims reflects a manipulation of the legal system to prevent government action against systemic intimidation.

112. (C) Management claims that the Union is being duped by FESTRAS and foreign labor activists, including those representing US/LEAP and the Solidarity Center, and that the vast majority of NB's workers are happy and proud to work there. While we consider the charge that these groups have "duped" the Union to be a gross exaggeration, the confrontational nature of these groups has increased the tensions at NB. As negotiations for a collective bargaining pact are nearing completion, we stressed to the Union not to allow this incident to derail the process. We stressed to the Union that achieving only the third collective bargaining agreement in Guatemala's entire maquila sector must be the Union's most important goal.

113. (U) This case demonstrates the obstacles which hamper the administration's efforts to enforce labor standards. The pressure from the Vice Minister of Labor was welcome, but does not resolve a case where a management team could manipulate the system to cover up acts of intimidation and assault, as we believe occurred at NB. Additionally,

incidents such as these are an important factor in regard to the lack of worker solidarity and help explain why many of NB's workers are disinclined to join the Union. Currently, only 20% of the workforce are members. The fact that 80% of the workers have not joined the union may be an indicator of worker satisfaction. We found the factory to be clean and well-maintained. Indeed, the working conditions were rather better than those we have seen elsewhere in Guatemala and in other countries, including in the United States.

HAMILTON